

The Honorable Ricardo. S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

| | | |
|--------------------------------------|---|-------------------------------|
| JENNIFER P. SCHWEICKERT, |) | |
| |) | |
| Plaintiff, |) | No. 13-CV-675 |
| |) | |
| v. |) | DEFENDANTS CHAD AND |
| |) | ELIZABETH RUDKIN'S ANSWER AND |
| HUNTS POINT VENTURES, INC.; HUNTS |) | AFFIRMATIVE DEFENSES TO |
| POINT VENTURE GROUP, LLC; CHAD and |) | PLAINTIFF'S FIRST AMENDED |
| ELIZABETH RUDKIN, and their marital |) | COMPLAINT |
| community comprised thereof; JOHN DU |) | |
| WORS, and DOES 1-4, |) | |
| |) | |
| Defendants. |) | |
| |) | |

CHAD AND ELIZABETH RUDKIN (collectively "Defendants"), by and through their undersigned counsel, provide the following Answer and Affirmative Defenses to Plaintiff JENNIFER P. SCHWEICKERT's First Amended Complaint (the "Complaint") as follows:

INTRODUCTION

In response to that portion of the Complaint entitled "Introduction," Defendants answer that it is a summary of Plaintiff's claims and no response is required.

THE PARTIES

In response to that portion of the Complaint entitled "the Parties," Defendants answer as follows:

DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 1
Case No. 13-CV-675

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22. Defendants have insufficient information to form a belief as to the allegations in Paragraph 22 and therefore DENY the allegations.

23. Defendants DENY the allegations contained in the ninth and tenth sentences of Paragraph 23. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations.

24. Defendants DENY the allegations contained in the third sentence of Paragraph 24. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations.

25. Defendants have insufficient information to form a belief as to the allegations in Paragraph 25 and therefore DENY the allegations.

26. Defendants have insufficient information to form a belief as to the allegations in Paragraph 26 and therefore DENY the allegations.

27. Defendants have insufficient information to form a belief as to the allegations in Paragraph 27 and therefore DENY the allegations.

28. Defendants DENY the allegations contained in the third and fifth sentences of Paragraph 28. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations.

HPV Breaches the Agreement

29. Defendants have insufficient information to form a belief as to the allegations in Paragraph 29 and therefore DENY the allegations.

30. Defendants DENY the allegations contained in the third sentence of Paragraph 30. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations.

31. Defendants have insufficient information to form a belief as to the allegations in Paragraph 31 and therefore DENY the allegations.

32. Defendants have insufficient information to form a belief as to the allegations in Paragraph 32 and therefore DENY the allegations.

33. Defendants have insufficient information to form a belief as to the allegations in Paragraph 33 and therefore DENY the allegations.

34. Defendants have insufficient information to form a belief as to the allegations in Paragraph 34 and therefore DENY the allegations.

35. Defendants have insufficient information to form a belief as to the allegations in Paragraph 35 and therefore DENY the allegations.

36. Defendants have insufficient information to form a belief as to the allegations in Paragraph 36 and therefore DENY the allegations.

37. Paragraph 37 is a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegation.

**First Cause of Action
Breach of Contract
(Against Defendants HPV and the Rudkins)**

38. Paragraph 38 incorporates previous paragraphs, and no response is required.

39. Defendants have insufficient information to form a belief as to the allegations in Paragraph 39 and therefore DENY the allegations.

40. Defendants answer that Defendant Chad Rudkin is the sole shareholder of Hunts Point Ventures, Inc.

41. Defendants DENY the allegations in Paragraph 41.

42. Defendants DENY the allegations in Paragraph 42.

43. Defendants DENY the allegations in Paragraph 43.

44. Defendants DENY the allegations in Paragraph 44.

**Second Cause of Action
Fraud
(Against Defendants the Rudkins and John and Amber Du Wors)**

45. Paragraph 45 incorporates previous paragraphs, and no response is required.

46. Defendants have insufficient information to form a belief as to the allegations in Paragraph 46 and therefore DENY the allegations.

47. Defendants have insufficient information to form a belief as to the allegations in Paragraph 47 and therefore DENY the allegations.

48. Defendants have insufficient information to form a belief as to the allegations in Paragraph 48 and therefore DENY the allegations.

49. Defendants DENY the allegations in Paragraph 49.

50. Defendants have insufficient information to form a belief as to the allegations in Paragraph 50 and therefore DENY the allegations.

51. Defendants have insufficient information to form a belief as to the allegations in Paragraph 51 and therefore DENY the allegations.

52. Defendants have insufficient information to form a belief as to the allegations in Paragraph 52 and therefore DENY the allegations.

**Third Cause of Action
Conspiracy
(Against Defendants the Rudkins and Mr. Du Wors)**

53. Paragraph 53 incorporates previous paragraphs, and no response is required.

54. Defendants DENY the allegations in Paragraph 54.

55. Defendants DENY the allegations in Paragraph 55.

56. Defendants DENY the allegations contained in the fifth sentence of Paragraph 56. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations.

57. Defendants have insufficient information to form a belief as to the allegations in Paragraph 57 and therefore DENY the allegations.

58. Defendants have insufficient information to form a belief as to the allegations in Paragraph 58 and therefore DENY the allegations.

1 59. Defendants DENY the allegations contained in the first and second sentences of
2 Paragraph 59. As to the remainder of the Paragraph, Defendants have insufficient information to
3 form a belief as to any remaining allegations and therefore DENY such allegations..

4 60. Defendants have insufficient information to form a belief as to the allegations in
5 Paragraph 60 and therefore DENY the allegations.

6 61. Defendants DENY the allegations in Paragraph 61.

7 62. Defendants DENY the allegations in Paragraph 62.

8 63. Defendants DENY the allegations in Paragraph 63.

9 **Fourth Cause of Action**
10 **Negligent Misrepresentation**
 (Against Defendant John Du Wors)

11 64. Paragraph 64 incorporates previous paragraphs, and no response is required.

12 65. Defendants have insufficient information to form a belief as to the allegations in
13 Paragraph 65 and therefore DENY the allegations.

14 66. Defendants have insufficient information to form a belief as to the allegations in
15 Paragraph 66 and therefore DENY the allegations.

16 67. Defendants have insufficient information to form a belief as to the allegations in
17 Paragraph 67 and therefore DENY the allegations.

18 68. Defendants have insufficient information to form a belief as to the allegations in
19 Paragraph 68 and therefore DENY the allegations.

20 69. Defendants have insufficient information to form a belief as to the allegations in
21 Paragraph 69 and therefore DENY the allegations.

22 70. Defendants have insufficient information to form a belief as to the allegations in
23 Paragraph 70 and therefore DENY the allegations.

24 **PRAYER FOR RELIEF**

25 No response is required to that portion of the Complaint entitled "Prayer for Relief."
26

AFFIRMATIVE DEFENSES

71. Plaintiff's complaint fails to state a claim on which relief can be granted.

72. Plaintiff's claims are barred by estoppel.

73. Plaintiff's claims are barred by waiver.

74. Plaintiff's claims are barred by laches.

75. Plaintiff's claims are barred because they were filed after the applicable statute of limitations expired.

76. To the extent Plaintiffs' complaint seeks equitable relief, Plaintiff's unclean hands bar such relief.

77. To the extent Plaintiff's complaint seeks equitable relief, Plaintiff's claims are barred because there is an adequate remedy at law.

78. To the extent Plaintiff's complaint seeks equitable relief, Plaintiff's claims are barred because there is no irreparable harm to Plaintiffs.

79. Plaintiff's complaint fails to name an indispensable party.

80. To the extent Plaintiff has damages, Plaintiff's damages were caused by one or more third parties.

81. To the extent Plaintiff's have damages, Plaintiffs failed to mitigate those damages.

82. Defendants reserve the right to add additional affirmative defenses.

1 DATED this 6th day of August, 2013.

2 FOSTER PEPPER PLLC

3
4 s/s Joel B. Ard

5 Joel B. Ard, WSBA No. 40104
6 *Attorneys for Defendants*
7 *Chad and Elizabeth Rudkin*

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DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 9
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CERTIFICATE OF SERVICE

I, Joel B. Ard, state that I am a citizen of the United States of America and a resident of the State of Washington, I am over the age of twenty one years, I am not a party to this action, and I am competent to be a witness herein. I electronically filed the above Answer and Affirmative Defenses to Plaintiff's Complaint with the Clerk of the Court using the CM/ECF System, who will electronically send notification of such filing to the following parties who have appeared in this action as of today's date:

- **Reed Yurchak** – yurchaklaw@gmail.com
- **A. Janay Ferguson** – ajf@leesmart.com
- **Sam Breazeale Franklin** – sbf@leesmart.com

There are no other parties who have appeared in this action as of today's date that need to be served manually.

I DECLARE under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 6th day of August, 2013.

/s/ Joel B. Ard

Joel B. Ard

CERTIFICATE OF SERVICE
Case No. 13-CV-675

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